

KOLES, BURKE & BUSTILLO, LLP
2600 KENNEDY BLVD.
JERSEY CITY, NEW JERSEY 07306
Email: JKoles@KBBLegal.com
NJ attorney ID no. 031491981
Attorneys for Plaintiff Christy Gonzalez
As administratrix ad prosequendum of the
Estate of Decedent George L. Gonzalez

Christy Gonzalez, as administratrix ad prosequendum of the estate of George L. Gonzalez, Plaintiff, v. Esther Suarez, in her official capacity as the Hudson County Prosecutor, and Hudson County, Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: HUDSON COUNTY DOCKET NO. CIVIL ACTION VERIFIED COMPLAINT
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Plaintiff Christy Gonzalez, as *administratrix ad prosequendum* of the estate of George L. Gonzalez, through their counsel Koles, Burke & Bustillo, LLP, and by way of complaint against the Defendants Esther Suarez, in her official capacity as the Hudson County Prosecutor, and Hudson County, alleges as follows:

Preliminary Statement

This is an action under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. (hereinafter referred to as "OPRA"), and the common law right of access seeking to require disclosure of:

The contents of the Hudson County Prosecutor's file concerning the motor vehicle collision that killed George Gonzalez on October 14, 2016, **excepting those materials that are material to its prosecution of Defendant Delatorre-Galarza for violating N.J.S.A. 2C:40-22 (a)**, including, but not limited to, any:

1. statements;
2. color digital photographs (in electronic form) taken by the Hudson County Sheriff's Department;
3. the Hudson County Sheriff's Department's total station measurements (in digital form); and
4. any diagrams prepared by the Hudson County Sheriff's Department that were based upon the total station measurements.

PARTIES

1. Plaintiff Christy Gonzalez, as administratrix *ad prosequendum* of the estate of George L. Gonzalez, an infant, is an individual who resides at 1607 Kennedy Boulevard, in Jersey City, Hudson County, New Jersey.

2. Defendant Hudson County is a municipal body, corporate and public, that is organized under the laws of the State of New Jersey. The Hudson County Prosecutor's Office has a principal place of business in the Hudson County Administration Building, 595 Newark Avenue in Jersey City, New Jersey.

3. Defendant Esther Suarez is the Hudson County Prosecutor and, upon information and belief, ultimately responsible as the Custodian of the Hudson County Prosecutor's records. As such, she is a "Custodian of a government record" as that term is defined by N.J.S.A. 47:1A-1.1. Defendant Esther Suarez, in her official capacity as the Hudson County Prosecutor, has her principal place of business is in the Hudson County Administration Building, 595 Newark Avenue in Jersey City, New Jersey 07306.

VENUE

4. Venue is properly laid in Hudson County because Defendant Esther Suarez is a public official located in Hudson County, and Hudson County is a public government entity, and because the cause of action arose in Hudson County. R. 4:3-2(a).

FACTUAL ALLEGATIONS

5. By way of background, Plaintiff's decedent, minor George Gonzalez, was killed on October 14, 2016. The blunt force trauma of a jitney bus striking George Gonzalez killed him. Plaintiff's decedent was 11 years old.

6. The Hudson County Prosecutor has advised me that it has only one criminal charge open against Defendant Raul O. Delatorre-Galarza, the driver whose jitney bus struck and killed

George, to wit, causing death while driving with a suspended or revoked license under N.J.S.A. 2C:40-22a.

7. Appendix 1 is Plaintiff's counsel's September 18th correspondence to the Hudson County Assistant Prosecutor Najma Q. Rana, Esq., along with a *subpoena duces tecum* for the contents of the Prosecutor's investigation into George's death. Plaintiff's *subpoena* sought the same contents of the Prosecutor's file that is the subject of Plaintiff's subject OPRA request and this Complaint.

8. Appendix 2 is a copy of the Hudson County Prosecutor's response to Plaintiff's counsel's *subpoena* dated September 22, 2017. Assistant Prosecutor Rana's response was that she could not provide the Prosecutor's file until its prosecution of the jitney driver was finished. The Prosecutor did not evaluate what was germane to its one count of causing death while driving with a suspended or revoked license under N.J.S.A. 2C:40-22a against Defendant Raul O. Delatorre-Galarza versus the material that is not germane to that proving that one count. The materials not germane to the prosecution are important to conduct Plaintiff's discovery. The Prosecutor made no attempt to identify which material in its file was germane to its prosecution, nor what was created for the investigation.

9. Appendix 3 is a copy of the Honorable Mary Costello's order dated October 27, 2017. Judge Costello denied Plaintiff's

motion to compel the Hudson County prosecutor to turn-over its materials not germane to its prosecution. Judge Costello explained her denial of Plaintiff's motion by stating, "(t)he information sought is more properly obtained through an OPRA request."

10. Appendix 4 is a copy of Judge Costello's October 27, 2017 order by which she denied the Prosecutor's cross-motion for a protective order. Judge Costello wrote, "(t)he cross-movant does not have standing (as a non-party) to seek a protective order. The information may be the subject of an OPRA request in the future at which time, the Hudson County Prosecutor's Office may object or comply. If judicial intervention is needed on the OPRA request, it will be referred to the designated OPRA judge in this vicinage."

11. Appendix 5 is a copy of Plaintiff's counsel's OPRA request to the Hudson County Prosecutor dated October 27, 2017. It asked for:

1. statements;
2. color digital photographs (in electronic form) taken by the Hudson County Sheriff's Department;
3. the Hudson County Sheriff's Department's total station measurements (in digital form);

4. any diagrams prepared by the Hudson County Sheriff's Department that were based upon the total station measurements; and

5. all accident reports.

12. Appendix 6 is the Hudson County Prosecutor's response dated November 2, 2017. With her response, the Prosecutor provided only a copy of the subject accident report.

13. Consequently, Plaintiff's counsel in the subject civil action, under Docket No. HUD-L-4704-16, are delayed in completing discovery. No depositions have been taken yet because counsel don't have the Prosecutor's investigation file. Plaintiff's counsel has been able to obtain an accident reconstruction report without the contents of the Prosecutor's investigation file.

14. As of the date of this Verified Complaint, the Hudson County Prosecutor has not provided the responsive documents, and mistakenly believes that it is not obligated to provide these documents because, it erroneously asserts, they are not public documents subject to an OPRA request because they are "exempt from disclosure under OPRA as a privileged category under N.J.S.A. 47:1A-1.1 as criminal investigatory records."

15. Hudson County, by the Hudson County Prosecutor's Office, has not provided the requested documents because it has formally denied Plaintiff's request.

16. True and correct copies of the documents referenced above are attached hereto.

FIRST COUNT
(OPEN PUBLIC RECORDS VIOLATION)

17. Plaintiff hereby repeats and incorporates by reference paragraphs 1-16 of this Verified Complaint.

18. Defendants violated OPRA by denying Plaintiff's OPRA request of October 27, 2017 and by not providing Plaintiff with access to the records sought by her.

SECOND COUNT
(COMMON LAW RIGHT OF ACCESS)

19. Plaintiff hereby repeats and incorporates by reference paragraphs 1-18 of this Verified Complaint.

16. Plaintiff and the public's interest in acquiring the documents outweigh any interest in continued secrecy that Defendants may have.

WHEREFORE, Plaintiff demands:

A. Disclosure of the copies of documents requested by Plaintiff in her OPRA requests;

B. An award of costs of this action and reasonable attorneys' fees;

C. Such other, further and different relief as the Court may deem equitable and just.

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Jonathan Koles as trial counsel.

CERTIFICATION PURSUANT TO R.1:38-7(B)

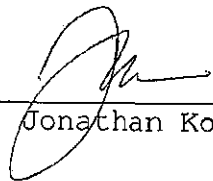
I certify that confidential personal identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future.

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to R.4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge and belief. To the best of my belief, no other action or arbitration proceeding is pending or contemplated. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

Dated: November 17, 2017

KOLES, BURKE & BUSTILLO, LLP
ATTORNEYS AT LAW
Attorneys for Plaintiff

By: 
Jonathan Koles, Esq.

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LAW OFFICES

KOLES, BURKE & BUSTILLO, L.L.P.

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JONATHAN KOLES*

JOHN M. BURKE

RAOUL BUSTILLO*

OF COUNSEL

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33 WEST 8TH STREET

BAYONNE, NEW JERSEY 07002

(201) 436-8070

233 BROADWAY

NEW YORK, NEW YORK 10279

(212) 524-5833

Via email (nrana@hcpu.org) then regular mail

September 18, 2017

Najma Q. Rana, Esq.

Assistant Prosecutor

Hudson County Prosecutor's Office

6th Floor

595 Newark Ave. Jersey City, NJ 07306-2394


Re: Christy Gonzalez, as administrator ad prosequendum of
the estate of Decedent George L. Gonzalez v. Raul O.
Delatorre-Galarza, et al.
Docket No. HUD-L-4704-16

Dear Ms. Rana:

I represent Plaintiff Christy Gonzalez. I enclose a
Subpoena Duces Tecum. Please respond to it not later than
October 4thⁿ.

Please contact me if you have any questions.

Very truly yours,


Jonathan Koles

Enc.

Xc w/ enc. via email only: Christy Gonzalez
(ChristyGonzalezC1979@gmail.com)

Kimberly A. Murphy, Esq. (Mintzer Sarowitz Zeris Ledva & Meyers,
LLP - KMurphy@DefenseCounsel.com)

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NJ attorney ID no. 031491981
Attorneys for Plaintiff Christy Gonzalez
-----X

Christy Gonzalez, as administrator
ad prosequendum of the estate of
Decedent George L. Gonzalez,
Plaintiff,

v.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Raul O. Delatorre-Galarza,
Pyramid Express Corp.,
AZ Metro Distributors, LLC,
Alpha American, LLC,
Robert Del Rosario-Hernan,
North Jersey Tobacco &
Confectionery Co., Inc.,
d/b/a North Jersey Coffee,
Jimmy Cruz, Trans Ed Inc.,
Beloved Community Charter School,
ABC Corp. Nos. 1 - 10 and
JOHN DOE Nos. 1 - 10, for parties
whose identities cannot yet be determined),
Defendants.

Docket No. HUD-L-4704-16

-----X CIVIL ACTION

SUBPOENA DUCES TECUM

You are hereby commanded to attend and give testimony
at the Law Office of Koles, Burke & Bustillo, LLP, 2600
Kennedy Blvd., Jersey City, New Jersey 07306, on October 4,
2017 the part of plaintiff, Christy Gonzalez, in the above
entitled action, and that you have and bring with you and
produce at the same time and place, the following:

The entire contents of the Hudson County Prosecutor's
file concerning the motor vehicle collision that killed
George Gonzalez on October 14, 2016

Including, but not limited to, any:

1. statements;
2. color digital photographs (in electronic form) taken by the Hudson County Sheriff's Department;
3. the Hudson County Sheriff's Department's total station measurements (in digital form),;
4. any diagrams prepared by the Hudson County Sheriff's Department that was based upon the total station measurements;
5. video surveillance that was collected during the investigation; and
6. all accident reports.


Pursuant to Rule 4:14-7 (c), the subpoenaed evidence shall not be produced or be released until the date specified for the taking of the deposition. If you are notified that a motion to quash the subpoena has been filed, you shall not produce or release the subpoenaed evidence until ordered to do so by the court or the release is consented to by all parties to this action. Failure to comply with this subpoena will subject you to such penalties as are provided by law.

In lieu of an appearance, the requested documents may be supplied by mail. The documents, however, should not be mailed to counsel before the date of the requested appearance on October 4, 2017. If you intend to produce the documents by mail, you must notify counsel to advise accordingly at least five days before the appearance date. The documents should be mailed on the date of your scheduled appearance.

Failure to appear according to the command of this subpoena will subject you to a penalty, damages in a civil suit and punishment for contempt of court.

Dated: September 18, 2017

KOLES, BURKE & BUSTILLO, LLP


Jonathan Koles, Esq.
Attorney for Plaintiff,
Christy Gonzalez

/s/
Clerk of the Superior Court

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OFFICE OF THE HUDSON COUNTY PROSECUTOR
595 NEWARK AVENUE
JERSEY CITY, NEW JERSEY 07306

ESTHER SUAREZ
PROSECUTOR

TELEPHONE: (201) 795-6400
FAX: (201) 795-3365

September 22, 2017

VIA FAX ONLY

Jonathan Koles, Esq.
Koles, Burke & Bustillo LLP
2600 Kennedy Boulevard
Jersey City, NJ 07306

Re: Christy Gonzalez, as administrator ad prosequendum
of the estate of Decedent George L. Gonzalez v. Raul
O. Delatorre-Galarza, et al.
Docket No. HUD-L-4704-16

State v. Raul Delatorre-Galarza
Prosecutor File No. 16-4250
Indictment No. 17-02-0107

Dear Mr. Koles:

I am in receipt of your letter and subpoena duces tecum dated September 18, 2017, requesting "the entire contents of the Hudson County Prosecutor's file concerning the motor vehicle collision that killed George Gonzalez on October 14, 2016" (hereinafter the "State's complete criminal file"). Unfortunately, because the Hudson County Prosecutor's Office is actively prosecuting the criminal case, I am unable to comply with this subpoena.

On October 14, 2016, at approximately 8:08 a.m., Hudson County Sheriff's Sergeant Bruce Miller was advised that a child was struck by an automobile at Kennedy Boulevard and Neptune Avenue. The investigation revealed that the Defendant Raul Delatorre-Galarza (hereinafter "Defendant") was operating a minibus when he struck eleven year old George Gonzalez. George Gonzalez (hereinafter "decedent") was critically injured and pronounced deceased later than morning at the Jersey City Medical Center. A subsequent review uncovered that the Defendant was operating the commercial motor vehicle while his driver's license was suspended or revoked.

On or about February 7, 2017, a Hudson County Grand Jury returned an indictment charging the Defendant with one count of causing death while driving with a suspended or revoked license under N.J.S.A. 2C:40-22a. The matter is next listed for oral argument on a motion to dismiss the indictment on October 12, 2017, before the Honorable Mirtha Ospina, J.S.C. Assistant Prosecutor Raquel Rivera is now assigned the prosecution of this case.

The State submits discovery of the State's complete criminal file is inappropriate while the criminal case is ongoing. Both the common law and statutory law support non-disclosure.

Courts and the legislature have recognized that records of open criminal investigations warrant special treatment. The need for confidentiality has been found to trump the public's right to access. As such, any investigation reports created in the course of a criminal investigation, whether open or closed, are in fact exempt from disclosure under OPRA as a privileged category under N.J.S.A. 47: 1A-1.1, as criminal investigatory records.

Although OPRA "defines 'government record' broadly [, it] also excludes twenty-one categories of information from the definition." Mason v. City of Hoboken, 196 N.J. 51, 65 (2008). These categories are considered "confidential" and are exempt from the definition of "government record." N.J.S.A. 47:1A-1.1.

OPRA defines a "criminal investigatory record" as a record which is not required by law to be made, maintained or kept on file that is held by a law enforcement agency which pertains to any criminal investigation or related civil enforcement proceeding (N.J.S.A. 47:1A-1.1). Criminal investigatory records include records involving all manner of crimes, resolved or

unresolved, and include information that is part and parcel of an investigation, confirmed and unconfirmed.

These reports that may be required to be "made, maintained or kept on file" are not mandated by law, either regulation or statute. Such reports do, however, "pertain to a criminal investigation" because they necessarily investigate the criminal activity. Thus, while there are records, they do meet the definition of a criminal investigatory record, and therefore, pursuant to N.J.S.A. 47:1A-1.1 are not accessible under OPRA. See Janeczko v. Division of Criminal Justice (GRC Complaint 2002-79 and 80); Executive Order #69 (Whitman).

Alternatively, "criminal investigatory records" related to an ongoing prosecution would be exempt from disclosure pursuant to N.J.S.A. 47:1A-3a and b when release of such records would be inimical to the public interest.

N.J.S.A. 47:1A-3a and b provide in pertinent part:

a. Notwithstanding the provisions of [OPRA], where it shall appear that the record or records which are sought to be inspected, copied, or examined shall pertain to an investigation in progress by any public agency, the right of access provided for in [OPRA] may be denied if the inspection, copying or examination of such record or records shall be inimical to the public interest; provided, however, that this provision shall not be construed to allow any public agency to prohibit access to a record of that agency that was open for public inspection, examination, or copying before the investigation commenced. Whenever a public agency, during the course of an investigation, obtains from another public agency a government record that was open for public inspection, examination or copying before the investigation commenced, the investigating agency shall provide the other agency with sufficient access to the record to allow the other agency to comply with requests made pursuant to [OPRA].

b.... Notwithstanding any other provision of this subsection, where it shall appear that

the information requested or to be examined will jeopardize the safety of any person or jeopardize any investigation in progress or may be otherwise inappropriate to release, such information may be withheld. This exception shall be narrowly construed to prevent disclosure of information that would be harmful to a bona fide law enforcement purpose or the public safety. Whenever a law enforcement official determines that it is necessary to withhold information, the official shall issue a brief statement explaining the decision.

Since any investigative reports, within the exempted "criminal investigatory records" category are pertinent to an active, open criminal investigation and prosecution, any release would prematurely interfere with those ongoing investigations and as such should remain confidential.

In addition to the statutory law, the common law favors non-disclosure. For records to be disclosed under the common law, requestors "must make a greater showing than required under OPRA, specifically: (1) 'the person seeking access must 'establish an interest in the subject matter of the material' "; and (2) 'the citizen's right to access 'must be balanced against the State's interest in preventing disclosure.'" Mason, supra, 196 N.J. at 67-68.

In carrying out the required balancing test, the New Jersey Supreme Court, in Loigman v. Kimmelman, 102 N.J. 98, 114 (1986), provides that the court may consider:

"(1) the extent to which disclosures will impede agency functions by discouraging citizens from providing information to the government; (2) the effect disclosure may have upon persons who have given such information, and whether they did so in reliance that their identities would not be disclosed; (3) the extent to which agency self-evaluation, program improvement, or other decision making will be chilled by disclosure; (4) the degree to which the information sought includes factual data as opposed to evaluative reports of policymakers; (5) whether any findings of

police misconduct have been insufficiently corrected by remedial measures instituted by the investigative agency; and (6) whether any agency disciplinary or investigatory proceedings have arisen that may circumscribe the individual's asserted need for the materials."

Additionally, the motivation of the requester is a relevant consideration in the balancing process under the common law, "[s]omewhat different but related considerations arise when the citizen seeks access to information to further a public good, as opposed to a private interest." Id. at 104.

Based on the above, courts have favored non-disclosure. The State's prosecution file, in a matter that remains open, is confidential and not subject to civil discovery at this time. See Shuttleworth v. City of Camden, 258 N.J. Super. 573, 585 (App. Div. 1992) (balancing common law right to know against government's need for confidentiality where there is an ongoing law enforcement investigation); River Edge Sav. & Loan Ass'n v. Hyland, 165 N.J. Super. 540, 544 (App. Div. 1979) (finding "no compelling need on the part of the plaintiff which would outweigh the possible harm to the interests of the State were disclosure" of informer's name and communications made); Cashen v. Spann, 66 N.J. 541, 556 (1975) (noting that in civil cases in which disclosure of an informant is sought for the purpose of asserting claims for money damages, the interests of the State in maintaining the confidentiality of the informer's identity "are entitled to a great degree of respect"), cert. denied, 423 U.S. 829 (1975); Hyland v. Smollok, 137 N.J. Super. 456 (App. Div. 1975), cert. denied, 71 N.J. 328 (1976); Asbury Park Press v. Seaside Heights, 246 N.J. Super. 62, 68 (App. Div. 1990) (directing that court must engage in balancing test to determine whether citizen's right to information outweighs public's interest in confidentiality of information in police reports).

To find that the State's entire criminal file is subject to civil discovery, absent extraordinary circumstances, would serve no useful purpose and will impede the State's ability to fairly prosecute the Defendant. The need to resolve the civil matter at the expense of the criminal prosecution cannot be said to be an "extraordinary circumstance," that would tip in favor of disclosure. A release of the State's confidential file in an open criminal case would jeopardize the prosecution of the case for multiple reasons.

The release of the file would only lead to additional requests for depositions of the State's witnesses, investigating police officers and detectives. This testimony could also be used during the criminal matter to impeach witnesses. Moreover, release of the State's file would also have a "chilling effect" on the witnesses who came forward and assisted law enforcement in the investigation.

Based upon the foregoing statutes and case law, the State asserts its need to maintain confidentiality of its criminal case file while the indictment remains open. The public interest in prosecuting this Defendant far outweighs the need to obtain these documents, and disclosure would be inimical to the public interest.

Please contact me if you have any questions. I can be reached at 201-795-6400, ext. 6565, or via e-mail at nrana@hcpu.org. Thank you for your time and attention to this matter.

Very truly yours,
 ESTHER SUAREZ
 Prosecutor of Hudson County

By: Najma Q. Rana
 NAJMA Q. RANA
 Assistant Prosecutor

Cc: Leo Hernandez, Chief of Homicide (via e-mail only)
 Assistant Prosecutor Raquel Rivera (via e-mail only)
 Kimberly A. Murphy, Esq. (Mintzer Sarowitz Zeris Ledva & Meyers LLP)
 Beth R. Wallach, Esq. (Barry McTiernan & Wedinger)
 Thomas J. Bracken, Esq. (Bennett Bricklin & Saltzburg, LLC)

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Email: JKoles@KBBLegal.com
NJ attorney ID no. 031491981
Attorneys for Plaintiff Christy Gonzalez
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Christy Gonzalez, as administrator
ad prosequendum of the estate of
Decedent George L. Gonzalez,
Plaintiff,

v.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Raul O. Delatorre-Galarza,
Pyramid Express Corp.,
AZ Metro Distributors, LLC,
Alpha American, LLC,
Robert Del Rosario-Hernan,
North Jersey Tobacco &
Confectionery Co., Inc.,
d/b/a North Jersey Coffee,
Jimmy Cruz, Trans Ed Inc.,
Beloved Community Charter School,
ABC Corp. Nos. 1 - 10 and
JOHN DOE Nos. 1 - 10, for parties
whose identities cannot yet be determined),
Defendants.

Docket No. HUD-L-4704-16

-----X CIVIL ACTION

**~~ORDER COMPELLING PRODUCTION OF THE HUDSON COUNTY PROSECUTOR'S
FILE AND EXTENDING DISCOVERY~~**

THIS MATTER HAVING been opened to the Court upon application
by Jonathan Koles of Koles, Burke & Bustillo, LLP, attorneys for
the plaintiff, Christy Gonzalez, for an Order compelling the
Hudson County Prosecutor to produce its investigation file,
excepting those materials germane to its one open charge against
Defendant Raul O. Delatorre-Galarza, and extending discovery for

180 days, and the Court having read the moving papers, and any opposition thereto, and for good cause shown;

It is on this 27th day of October, 2017 ORDERED that:

1. ~~Not later than November 15, 2017, the Hudson County Prosecutor shall deliver to Jonathan Koles a copy of the contents of its investigation file, excepting those materials germane to proving its case against Raul O. Delatorre-Galarza on the one count of causing death while driving with a suspended or revoked license under N.J.S.A. 2C:40-22a;~~
2. ~~Within fourteen days of the resolution of its case against Raul O. Delatorre-Galarza on the one count of causing death while driving with a suspended or revoked license under N.J.S.A. 2C:40-22a, the Hudson County Prosecutor will deliver to Jonathan Koles the balance of its investigation materials; and~~
3. ~~The discovery end date in this matter is July 28, 2018.~~

~~It is further Ordered that a copy of the within Order be served upon all parties, Najma Q. Rana, Esq., Assistant Prosecutor, Hudson County Prosecutor's Office, and Edgar Navarrete, Esq. of Alonso & Navarrete, within seven days of the entry of this Order.~~

The information sought is more properly obtained through an OPRA request.
The pending criminal charges against one defendant shall not serve to delay discovery against remaining defendants. DED remains 1/18/18.

Mary K. Costello
J.S.C.
Mary K. Costello, P.J.Cv.

☒ OPPOSED

☐ UNOPPOSED

4

ESTHER SUAREZ
Prosecutor of Hudson County
Attorney ID No.: 023161997
Hudson County Prosecutor's Office
595 Newark Avenue, 6th Floor
Jersey City, NJ 07306

Christy Gonzalez, as
administrator *ad prosequendum*
of the estate of Decedent
George L. Gonzalez,

Plaintiff,

v.

Raul O. Delatorre-Galarza,
Pyramid Express Corp., AZ Metro
Distributors, LLC, Alpha
American, LLC, Robert Del
Rosario-Hernan, North Jersey
Tobacco & Confectionary Co.,
Inc. d/b/a North Jersey Coffee,
Jimmy Cruz, Trans Ed, Inc.,
Beloved Community Charter
School, ABC Corp. Nos. 1-10,
and JOHN DOE 1-10, for parties
who cannot yet be determined,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CIVIL PART
Docket No. HUD-L-4704-16

PROTECTIVE ORDER

THIS MATTER HAVING been opened to the Court upon application of the State of New Jersey, by the Office of the Hudson County Prosecutor, Esther Suarez, appearing by Assistant Prosecutor Raquel R. Rivera, and the Court having read the moving papers, and any opposition thereto, and for good cause shown;

It is on this 27th day of October, 2017 **ORDERED** that:

- 1) A temporary protective order barring discovery of the criminal file in the matter of State v. Raul O. Delatorre-Galarza, Indictment No.: 17-10-00674, Prosecutor File No.: 16-4250, is hereby entered; and
- 2) The Hudson County Prosecutor's Office shall turn over the portions of its file permitted in accordance with the Rules no later than sixty (60) days after sentencing or acquittal.

Mary K. Costello

Hon. Joseph A. Turula, J.S.C.
Mary K. Costello, P.J.Cv.

The cross-movant does not have standing (as a non-party) to seek a protective order. The information sought may be the subject of an OPRA request in the future at which time, the Hudson County Prosecutor's Office may object or comply. If judicial intervention is needed on the OPRA request, it will be referred to the designated OPRA judge in this vicinage.

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HUDSON COUNTY PROSECUTOR'S OFFICE
OPEN PUBLIC RECORDS ACT REQUEST FORM
 595 Newark Avenue
 Jersey City, New Jersey 07306
 (P) 201.795.6400 (F) 201.795.3365
 OPRA@HCPO.org



Important Notice

The last page of this form contains Important Information related to your rights concerning government records. Please read it carefully.

Requestor Information - Please Print

First Name Jonathan MI Last Name Koles
 E-mail Address JKoles@KBBLegal.com
 Mailing Address Koles, Burke & Bustillo, LLP, 2600 Kennedy Blvd.,
 City Jersey City State New Jersey Zip 07306
 Telephone 201-200-0300 FAX 201-200-0410
 Preferred Delivery: Pick Up ☐ US Mail ☐ On-Site Inspect ☐ Fax ☐ E-mail ☒
 If you are requesting records containing personal information, please circle one: Under penalty of N.J.S.A. 2C:28-3, I certify that I HAVE / HAVE NOT been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States.
 Signature [Signature] Date October 27, 2017

Payment Information

Maximum Authorization Cost: \$
 Select Payment Method
 Cash ☐ Check ☐ Money Order ☐
 Fees: Letter size pages - \$0.05 per page
 Legal size pages - \$0.07 per page
 Other materials (CD, DVD, etc) - actual cost of material
 Delivery: Delivery / postage fees additional depending upon delivery type.
 Extras: Special service charge dependent upon request.

Record Request Information: Please be as specific as possible in describing the records being requested. Also, please note that your preferred method of delivery will only be accommodated if the custodian has the technological means and the integrity of the records will not be jeopardized by such method of delivery.

The contents of the Hudson County Prosecutor's file concerning the motor vehicle collision that killed George Gonzalez on October 14, 2016, excepting those materials that are material to its prosecution of Defendant Delatorre-Galarza for violating N.J.S.A. 2C:40-22 (a). Including, but not limited to, any:

1. statements;
2. color digital photographs (in electronic form) taken by the Hudson County Sheriff's Department;
3. the Hudson County Sheriff's Department's total station measurements (in digital form),;
4. any diagrams prepared by the Hudson County Sheriff's Department that was based upon the total station measurements;
5. video surveillance that was collected during the investigation; and
6. all accident reports.

AGENCY USE ONLY

AGENCY USE ONLY

AGENCY USE ONLY

<p>Est. Document Cost _____</p> <p>Est. Delivery Cost _____</p> <p>Est. Extras Cost _____</p> <p>Total Est. Cost _____</p> <p>Deposit Amount _____</p> <p>Estimated Balance _____</p> <p>Deposit Date _____</p>	<p align="center">Disposition Notes</p> <p>Custodian: If any part of request cannot be delivered in seven business days, detail reasons here.</p> <p>In Progress - Open _____</p> <p>Denied - Closed _____</p> <p>Filled - Closed _____</p> <p>Partial - Closed _____</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Tracking Information</th> <th style="text-align: left;">Final Cost</th> </tr> </thead> <tbody> <tr> <td>Tracking # _____</td> <td>Total _____</td> </tr> <tr> <td>Rec'd Date _____</td> <td>Deposit _____</td> </tr> <tr> <td>Ready Date _____</td> <td>Balance Due _____</td> </tr> <tr> <td>Total Pages _____</td> <td>Balance Paid _____</td> </tr> <tr> <td align="center" colspan="2">Records Provided _____</td> </tr> <tr> <td align="right" colspan="2">Custodian Signature _____</td> </tr> <tr> <td align="right" colspan="2">Date _____</td> </tr> </tbody> </table>	Tracking Information	Final Cost	Tracking # _____	Total _____	Rec'd Date _____	Deposit _____	Ready Date _____	Balance Due _____	Total Pages _____	Balance Paid _____	Records Provided _____		Custodian Signature _____		Date _____	
Tracking Information	Final Cost																	
Tracking # _____	Total _____																	
Rec'd Date _____	Deposit _____																	
Ready Date _____	Balance Due _____																	
Total Pages _____	Balance Paid _____																	
Records Provided _____																		
Custodian Signature _____																		
Date _____																		

DEPOSITS

The custodian may require a deposit against costs for reproducing documents sought through an anonymous request whenever the custodian anticipates that the documents requested will cost in excess of \$5 to reproduce.

Where a special service charge is warranted under OPRA, that amount will be communicated to you as required under the statute. You have the opportunity to review and object to the charge prior to it being incurred. If, however, you approve of the fact and amount of the special service charge, you may be required to pay a deposit or pay in full prior to reproduction of the documents.

YOUR REQUEST FOR RECORDS IS DENIED FOR THE FOLLOWING REASON(S):

(To be completed by the Custodian of Records – check the box of the numbered exemption(s) as they apply to the records requested. If multiple records are requested, be specific as to which exemption(s) apply to each record. Response is due to requestor as soon as possible, but no later than seven business days.)

N.J.S.A. 47:1A-1.1

- ☐ Inter-agency or intra-agency advisory, consultative or deliberative material
- ☐ Legislative records
- ☐ Law enforcement records:
 - ☐ Medical examiner photos
 - ☐ Criminal investigatory records (however, N.J.S.A. 47:1A-3.b. lists specific criminal investigatory information which must be disclosed)
 - ☐ Victims' records
- ☐ Trade secrets and proprietary commercial or financial information
- ☐ Any record within the attorney-client privilege
- ☐ Administrative or technical information regarding computer hardware, software and networks which, if disclosed would jeopardize computer security
- ☐ Emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein
- ☐ Security measures and surveillance techniques which, if disclosed, would create a risk to the safety or persons, property, electronic data or software
- ☐ Information which, if disclosed, would give an advantage to competitors or bidders
- ☐ Information generated by or on behalf of public employers or public employees in connection with:
 - ☐ Any sexual harassment complaint filed with a public employer
 - ☐ Any grievance filed by or against an employee
 - ☐ Collective negotiations documents and statements of strategy or negotiating
- ☐ Information that is a communication between a public agency and its insurance carrier, administrative service organization or risk management office
- ☐ Information that is to be kept confidential pursuant to court order
- ☐ Certificate of honorable discharge issued by the United States government (Form DD-214) filed with a public agency
- ☐ Social security numbers
- ☐ Credit card numbers
- ☐ Unlisted telephone numbers
- ☐ Drivers' license numbers
- ☐ Certain records of higher education institutions:
 - ☐ Research records
 - ☐ Questions or scores for exam for employment or academics
 - ☐ Charitable contribution information
 - ☐ Rare book collections gifted for limited access
 - ☐ Admission applications
 - ☐ Student records, grievances or disciplinary proceedings revealing a students' identification
- ☐ Biotechnology trade secrets N.J.S.A. 47:1A-1.2
- ☐ Convicts requesting their victims' records N.J.S.A. 47:1A-2.2

- ☒ Ongoing investigations of non-law enforcement agencies (must prove disclosure is inimical to the public interest) N.J.S.A. 47:1A-3.a.
- ☒ Public defender records N.J.S.A. 47:1A-5.k.
- ☒ Upholds exemptions contained in other State or federal statutes and regulations, Executive Orders, Rules of Court, and privileges created by State Constitution, statute, court rule or judicial case law N.J.S.A. 47:1A-9
- ☒ Personnel and pension records (however, the following information must be disclosed:
 - An individual's name, title, position, salary, payroll record, length of service, date of separation and the reason for such separation, and the amount and type of any pension received
 - When required to be disclosed by another law, when disclosure is essential to the performance of official duties of a person duly authorized by this State or the US, or when authorized by an individual in interest
 - Data contained in information which disclose conformity with specific experiential, educational or medical qualifications required for government employment or for receipt of a public pension, but not including any detailed medical or psychological information N.J.S.A. 47:1A-10

N.J.S.A. 47:1A-1

- ☐ "a public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy."

Burnett v. County of Bergen, 198 N.J. 408 (2009). Without ambiguity, the court held that the privacy provision "is neither a preface nor a preamble." Rather, "the very language expressed in the privacy clause reveals its substantive nature; it does not offer reasons why OPRA was adopted, as preambles typically do; instead, it focuses on the law's implementation." "Specifically, it imposes an obligation on public agencies to protect against disclosure of personal information which would run contrary to reasonable privacy interests."

Executive Order No. 21 (McGreevey 2002)

- ☒ Records where inspection, examination or copying would substantially interfere with the State's ability to protect and defend the State and its citizens against acts of sabotage or terrorism, or which, if disclosed, would materially increase the risk or consequences of potential acts of sabotage or terrorism.
- ☒ Records exempted from disclosure by State agencies' proposed rules.

Executive Order No. 26 (McGreevey 2002)

- ☒ Certain records maintained by the Office of the Governor
- ☒ Resumes, applications for employment or other information concerning job applicants while a recruitment search is ongoing
- ☒ Records of complaints and investigations undertaken pursuant to the Model Procedures for Internal Complaints Alleging Discrimination, Harassment or Hostile Environments
- ☒ Information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation
- ☒ Information in a personal income or other tax return
- ☒ Information describing a natural person's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness, except as otherwise required by law to be disclosed
- ☒ Test questions, scoring keys and other examination data pertaining to the administration of an examination for public employment or licensing
- ☒ Records in the possession of another department (including NJ Office of Information Technology or State Archives) when those records are made confidential by regulation or EO 9.

Other Exemption(s) contained in a State statute, resolution of either or both House of the Legislature, regulation, Executive Order, Rules of Court, any federal law, federal regulation or federal order pursuant to N.J.S.A. 47:1A-9.a.
 (Please provide detailed information regarding the exemption from disclosure for which you are relying to deny access to government records. If multiple records are requested, be specific as to which exemption(s) apply to each record.)

REQUEST FOR RECORDS UNDER THE COMMON LAW

If, in addition to requesting records under OPRA, you are also requesting the government records under the common law, please check the box below.

A public record under the common law is one required by law to be kept, or necessary to be kept in the discharge of a duty imposed by law, or directed by law to serve as a memorial and evidence of something written, said, or done, or a written memorial made by a public officer

authorized to perform that function, or a writing filed in a public office. The elements essential to constitute a public record are that it be a written memorial, that it be made by a public officer, and that the officer be authorized by law to make it.

☐ Yes, I am also requesting the documents under common law.

If the information requested is a "public record" under common law and the requestor has a legally recognized interest in the subject matter contained in the material, then the material must be disclosed if the individual's right of access outweighs the State's interest in preventing disclosure.

Please set forth your interest in the subject matter contained in the requested material:

Note that any challenge to a denial of a request for records under the common law cannot be made to the Government Records Council, as the Government Records Council only has jurisdiction to adjudicate challenges to denials of OPRA requests. A challenge to the denial of access under the common law can be made by filing an action in Superior Court.

1. All government records are subject to public access under the Open Public Records Act ("OPRA"), unless specifically exempt.
2. A request for access to a government record under OPRA must be in writing, hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian. N.J.S.A. 47:1A-5.g. The seven (7) business day response time does not commence until the records custodian receives the request form. If you submit the request form to any other officer or employee of the **Hudson County Prosecutor's Office**, that officer or employee must either forward the request to the appropriate custodian, or direct you to the appropriate custodian. N.J.S.A. 47:1A-5.h.
3. Requestors may submit requests anonymously. If you elect not to provide a name, address, or telephone number, or other means of contact, the custodian is not required to respond until you reappear before the custodian seeking a response to the original request.
4. The fees for duplication of a government record in printed form are listed on the front of this form. We will notify you of any special service charges or other additional charges authorized by State law or regulation before processing your request. Payment shall be made by cash, check or money order payable to the **Hudson County Prosecutor's Office**.
5. **You may be charged a 50% or other deposit when a request for copies exceeds \$25.** The **Hudson County Prosecutor's Office** custodian will contact you and advise you of any deposit requirements. You agree to pay the balance due upon delivery of the records. Anonymous requests in excess of \$5.00 require a deposit of 100% of estimated fees.
6. Under OPRA, a custodian must deny access to a person who has been convicted of an indictable offense in New Jersey, any other state, or the United States, and who is seeking government records containing personal information pertaining to the person's victim or the victim's family. This includes anonymous requests for said information.
7. By law, the **Hudson County Prosecutor's Office** must notify you that it grants or denies a request for access to government records within seven (7) business days after the agency custodian of records receives the request. If the record requested is not currently available or is in storage, the custodian will advise you within seven (7) business days after receipt of the request when the record can be made available and the estimated cost for reproduction.
8. You may be denied access to a government record if your request would substantially disrupt agency operations and the custodian is unable to reach a reasonable solution with you.
9. If the **Hudson County Prosecutor's Office** is unable to comply with your request for access to a government record, the custodian will indicate the reasons for denial on the request form or other written correspondence and send you a signed and dated copy.
10. Except as otherwise provided by law or by agreement with the requester, if the agency custodian of records fails to respond to you within seven (7) business days of receiving a request, the failure to respond is a deemed denial of your request.
11. If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the **Hudson County Prosecutor's Office** to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council ("GRC") by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at PO Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The Council can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.
12. Information provided on this form may be subject to disclosure under the Open Public Records Act.

6



OFFICE OF THE HUDSON COUNTY PROSECUTOR

595 NEWARK AVENUE
JERSEY CITY, NEW JERSEY 07306

ESTHER SUAREZ
PROSECUTOR

TELEPHONE: (201) 795-6400
FAX: (201) 795-3365

November 2, 2017

Jonathan Koles, Esq.
Koles, Burke & Bustillo, LLP
2600 John F. Kennedy Boulevard, Suite 1K
Jersey City, NJ 07306
SENT VIA EMAIL ONLY TO: JKoles@KBBLegal.com

RE: OPRA Request
State v. Raul O. Delatorre-Galarza
Pros. File No. 16-4250

Dear Mr. Koles:

I am in receipt of your request under the New Jersey Open Public Records Act, N.J.S.A. 47: 1A-1, et. seq., dated October 30, 2017, wherein you seek the following: "the contents of the Hudson County Prosecutor's File 16-4250 concerning the motor vehicle collision that killed George Gonzalez on October 14, 2016, excepting those materials that are material to its prosecution of Defendant Delatorre-Galarza for violating N.J.S.A. 2C:40-22(a). Including, but not limited to any:

1. Statements;
2. Color digital photographs (in electronic form) taken by the Hudson County Sheriff's Department;
3. The Hudson County Sheriff's Department's total station measurements (in digital form);
4. Any diagrams prepared by the Hudson County Sheriff's Department that was based upon the total station measurements;
5. Video surveillance that was collected during the investigation; and
6. All accident reports"

Items 1-5 of your request are exempt from disclosure under OPRA as a privileged category under N.J.S.A. 47: 1A-1.1, as criminal investigatory records. A criminal investigatory record is defined as a "record which is not required by law to be made, maintained or kept on file that is held by a law enforcement agency which pertains to any criminal investigation or related

civil enforcement proceeding." These are not government records and are therefore exempt from disclosure pursuant to OPRA. N.J.S.A. 47:1A-1.1; Newman v. New Jersey State Police, GRC Complaint No. 2013-347 (July 2014) (incident reports describing New Jersey State Police response to a call are criminal investigatory records); Maniscalco v. Atlantic County Prosecutor's Office, GRC Complaint No. 2012-247 (July 2013) (records based upon complaint filed with ACPO were criminal investigatory records); Nance v. Scotch Plains Twp. Police Dep't, GRC Complaint No. 2003-125 (January 2005) (police incident reports, continuation reports, and property and evidence reports are criminal investigatory records); McCrone (The Trenton Times) v. Burlington County Prosecutor's Office, GRC Complaint No. 2005-146 (November 2005) (autopsy and toxicology results are criminal investigatory records). A record remains a criminal investigatory record whether the case is open or closed.

With respect to Item 6, which seeks all accident reports, please be advised that the New Jersey State Crash Investigation Report is considered a public document to which you are entitled. It is attached hereto, consisting of five pages.

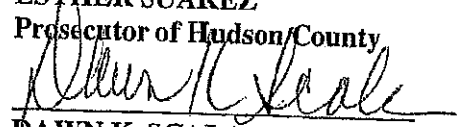
I am aware that Judge Costello has ordered that the Hudson County Prosecutor's Office provide discovery to you that is not germane to our pending criminal prosecution. That is a separate issue that will be handled by Assistant Prosecutor Raquel Rivera.

The Hudson County Prosecutor's Office reserves the right to raise any other ground for denial not raised in this response. The failure of the Hudson County Prosecutor's Office to assert an exception or privilege does not act as a waiver of any ground for denial. You have a right to appeal a decision that a document or documents are not public records. You may take your appeal to the Government Records Council or to the New Jersey Superior Court as provided by N.J.S.A. 47:1A-6 and -7.

Very truly yours,

ESTHER SUAREZ
Prosecutor of Hudson County

By:


DAWN K. SCALA
Assistant Prosecutor

DKS:pd
Attachment

cc: Assistant Prosecutor Raquel Rivera

Page 1 of 1		New Jersey Police Crash Investigation Report		Reportable		Non-Reportable		Change Report	
96	04	1 Case Number	16-0229090	10 Crash Occurred On	JOHN F. KENNEDY BLVD	11 Speed Limit	25	113a	85
97	01	2 Police Dept of	Hudson County Sheriff	12 Route No.	50	13 Milepost	2.15	113b	—
98	01	3 Station/ precinct	PATROL	14	15	16	17	113c	02
99	05	4 Date of Crash	10/14/16	5 Day of Week	Th	6 Time	0803	113d	04
100	01	7 Municipality	0900	8 Total Killed	0	9 Total Injured	0	113e	—
101	02	23 Veh No	P1	24 Policy No.	—	25 Ins Code	—	113f	—
102	01	26 Driver's First Name	GEORGE	27 Number and Street	—	28 City	—	113g	01
103	01	29 Sex	M	30 Eyes	02	31 State	—	113h	—
104	01	32 Drivers License No	—	33 DOB	—	34 Expires	—	113i	—
105	13	35 Owner's First Name	—	36 Number and Street	—	37 City	—	113j	—
106	—	38 Make	—	39 Model	—	40 Color	—	113k	—
107	—	41 Year	—	42 Plate No.	—	43 State	—	113l	—
108	—	44 VIN	—	45 Expires	—	46 Vehicle Removed To	—	113m	—
109	30	47 Authority	—	48 Alcohol/Drug Test	Given: No	49 Results	0%	113n	—
110	—	50 Carrier No.	—	51 Commercial Vehicle Weight	≤ 10,000 lbs	52 Carrier name	—	113o	—
111	02	53 Crash Diagram	SEE CRASH INVESTIGATION					113p	—
112	—	54 Hazardous Material	—					113q	—
113	—	55 Damage To Other Property	—					113r	—
114	—	56 Charges	—					113s	—
115	02	57 Summons No.	—					113t	—
116	03	58 Signature	THOMAS DESTASO					113u	—
117	—	59 Case Status	Complete					113v	—
118	—	60 Occupants	—					113w	—
119	—	61 Occupants	—					113x	—
120	—	62 Occupants	—					113y	—
121	—	63 Occupants	—					113z	—
122	—	64 Occupants	—					114a	—
123	—	65 Occupants	—					114b	—
124	—	66 Occupants	—					114c	—
125	—	67 Occupants	—					114d	—
126	—	68 Occupants	—					114e	—
127	—	69 Occupants	—					114f	—
128	—	70 Occupants	—					114g	—
129	—	71 Occupants	—					114h	—
130	—	72 Occupants	—					114i	—
131	—	73 Occupants	—					114j	—
132	—	74 Occupants	—					114k	—
133	—	75 Occupants	—					114l	—
134	—	76 Occupants	—					114m	—
135	—	77 Occupants	—					114n	—
136	—	78 Occupants	—					114o	—
137	—	79 Occupants	—					114p	—
138	—	80 Occupants	—					114q	—
139	—	81 Occupants	—					114r	—
140	—	82 Occupants	—					114s	—
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142	—	84 Occupants	—					114u	—
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169	—	111 Occupants	—					115v	—
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173	—	115 Occupants	—					115z	—
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183	—	125 Occupants	—					116j	—
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248	—	190 Occupants	—					118w	—
249	—	191 Occupants	—					118x	—
250	—	192 Occupants	—					118y	—
251	—	193 Occupants	—					118z	—
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253	—	195 Occupants	—					119b	—
254	—	196 Occupants	—					119c	—
255	—	197 Occupants	—					119d	—
256	—	198 Occupants	—					119e	—
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259	—	201 Occupants	—					119h	—
260	—	202 Occupants	—					119i	—
261	—	203 Occupants	—					119j	—
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264	—	206 Occupants	—					119m	—
265	—	207 Occupants	—					119n	—
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286	—	228 Occupants	—					120i	—
287	—	229 Occupants	—					120j	—

SPEED EQUATION SHEET

File# 16-029090

Totals Throw Equation – Using Victim Center of Mass

$$V = \sqrt{\frac{2\mu g(S - (\mu H))}{1 + \mu^2}} \quad V = \sqrt{\frac{2 * .71 * 32.2 * (53 - (.71 * 2.5))}{1 + .71^2}}$$

$$V = \sqrt{\frac{2 * .71 * 32.2 (53 - 1.775)}{1 + .501}} \quad V = \sqrt{\frac{2 * .71 * 32.2 * 51.22}{1 + .504}}$$

$$V = \sqrt{\frac{2341.98}{1.504}} \quad V = \sqrt{1557.16} \quad V = 39.46 \text{ fps}$$

$$S = \frac{v}{1.466} \quad S = \frac{39.46}{1.466} \quad S = 26.91 \text{ mph}$$

Speed From Total Throw – 0 take off angle

$$V = \sqrt{\frac{2\mu g d}{1 + \mu^2}} \quad V = \sqrt{\frac{2 * .71 * 32.2 * 53}{1 + .71^2}} \quad V = \sqrt{\frac{2423.37}{1 + .50}}$$

$$V = \sqrt{\frac{2423.37}{1.5}} \quad V = \sqrt{1615.58} \quad V = 40 \text{ fps}$$

$$S = \frac{v}{1.466} \quad S = \frac{40}{1.466} \quad S = 27.28 \text{ mph}$$

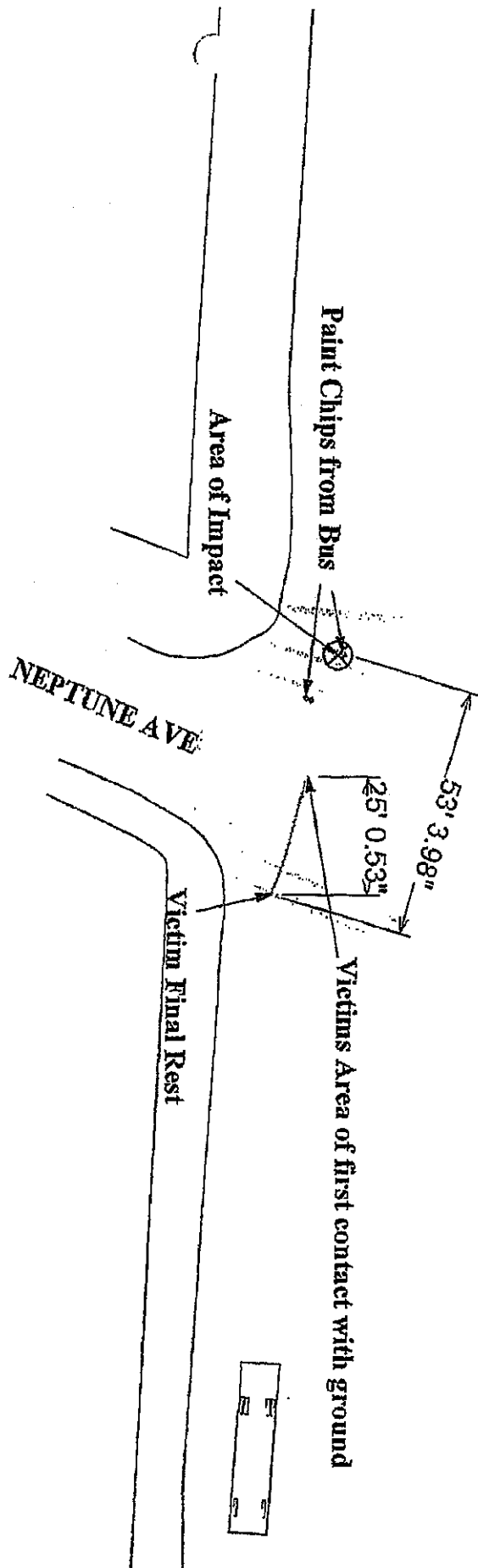
Speed from Slid phase of victim's body

$$S = \sqrt{30df} \quad S = \sqrt{30 * 25 * .71} \quad S = \sqrt{532.5} \quad S = 23.07 \text{ mph}$$



HUDSON COUNTY SHERIFF'S OFFICE
CRASH INVESTIGATION UNIT
FILE # 16-029090 Date: 10/14/2016
Time: 0806 hrs
Location: Kennedy Blvd & Neptune Ave
Jersey City, NJ

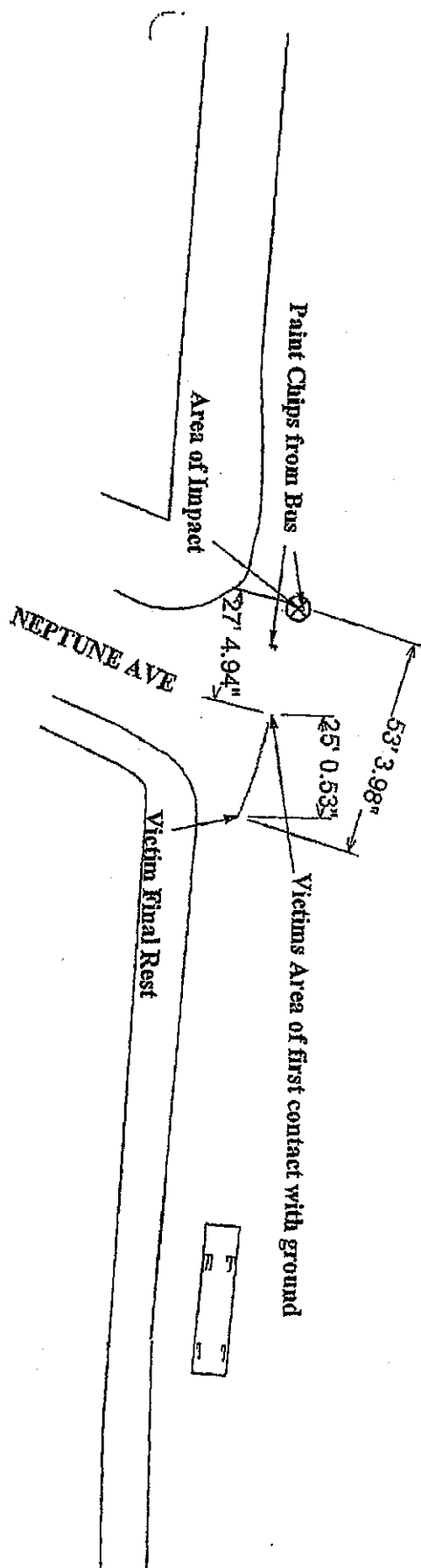
KENNEDY BLVD





HUDSON COUNTY SHERIFF'S OFFICE
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KENNEDY BLVD



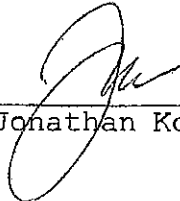
CERTIFICATION FOR VERIFICATION

JONATHAN KOLES, of full age, certifies as follows:

1. I am Plaintiff's counsel in the within matter.
2. I have reviewed the Verified Complaint to which this Certification of Verification is attached.
3. The allegations of the Verified Complaint are true to the best of my knowledge, information and belief.
4. Appendix 1 is a true and accurate copy of my September 18th correspondence to the Hudson County Assistant Prosecutor Najma Q. Rana, Esq., along with a true and accurate copy of the subpoena duces tecum for the contents of the Prosecutor's investigation into George Gonzalez's death.
5. Appendix 2 is a true and accurate copy of is a copy of the Hudson County Prosecutor's response to my subpoena dated September 22, 2017.
6. Appendix 3 is a true and accurate copy of is a copy of the Honorable Mary Costello's order dated October 27, 2017.
7. Appendix 4 is a true and accurate copy of Judge Costello's October 27, 2017 order by which she denied the Prosecutor's cross-motion for a protective order.
8. Appendix 5 is a true and accurate copy of is a copy of my OPRA request to the Hudson County Prosecutor dated October 27, 2017.
9. Appendix 6 is a true and accurate copy of the Hudson County Prosecutor's response to my OPRA request dated November 2,

2017.

10. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.



Jonathan Koles

Dated: November 17, 2017